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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,635	10/14/2005	Fiorenzo Draghetti	2723-0139PUS1	5873
2292	7590	11/13/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			HUYNH, LOUIS K	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

NT

Application No.

10/523,635

Applicant(s)

DRAGHETTI, FIORENZO

Examiner

Louis K. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-30 is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/4/05</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 1, line 11-14: “the rotational movement ... gripping head” is ambiguous and indefinite because the axis of rotation cannot be determined. Note that any axis of rotation other than the axis passing through a hinge connecting the first and second portions is not supported by the specification and is not the invention of the present application. It is respectfully suggested that the claim be amended to include the limitation of the second portion being hinged to the first portion for the rotational movement which is corresponding to the limitation recited in the apparatus claim 15 on lines 13-15.
- Claim 1, line 14: “suction cups on the second portion” lacks proper antecedent basis. it is respectfully suggested that the claim be amended to include the recitation of the first and second portions comprising respective suction cups and the suction cups of the second portion being fitted to the second portion to move along the second portion in order to provide proper antecedent basis for the suction cups on the second portion moving in a direction perpendicular to the axis

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of rotation during the rotational movement between the first and the second portion of the first suction gripping head.

- Claim 3, line 4: “the open tubular package is sealed” is indefinite because it is unclear whether the open tubular package being sealed with or without the product therein.
- Claim 4, lines 3-4: “feeding the open tubular package through the sealing station and to an output station” is vague and indefinite because it is unclear whether the tubular package is still opened as it is fed to the output station after going through the sealing station.
- Claim 6, line 2: “flaps projecting from the first and second lateral walls” lacks proper antecedent basis.
- Claim 8 is ambiguous and indefinite because the first suction gripping head is not designed to be an independent artificial intelligence, the suction gripping head cannot itself determine any position of the flat tubular package and/or adapt itself to any position. It is respectfully suggested that the claim be amended to recite positive method steps such as determine exact location of the flat tubular package using an optical device, moving the suction gripping head to a position with respect to the determined location of the flat tubular package, etc.
- Claim 10, lines 1-4: “and ... and by also” render the claim indefinite because the step of engaging the first and second lateral walls by means of the first and second portion of the suction gripping head has already been set forth in claim 1, thus it is

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unclear as to whether this step is actually repeated for a second time during the claimed process of packaging the product.

***Allowable Subject Matter***

3. Claims 1-14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

4. Claims 15-30 are allowed over the prior art of record. The prior art of record fails to disclose and or teach a machine for packaging product that comprises, among other things, a suction gripping head having a first portion and a second portion hinged to the first portion, the first and second portion comprising respective suction cups, wherein the suction cups of the second portion are fitted to the second portion to move in a direction perpendicular to the axis of rotation during the rotational movement between the first and second portions of the suction gripping head such that the flat tubular package is converted to an open tubular package without exerting stress on the wall gripped by the suction cups of the second portion.

***Priority***

5. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Italy on 08/05/2002. It is noted, however, that applicant has not filed a copy of the certified copy of the BO2002A000521 application as required by 35 U.S.C. 119(b).

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied references.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 8:00AM to 3:00PM.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Louis K. Huynh  
Primary Examiner  
Art Unit 3721

November 9, 2006